

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:16-CV-00667-F

DWIGHT HILL,)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
ERICA KEHLEHER and MICHAEL KEHLEHER,)	
Defendants.)	

Pending before the court is the Memorandum and Recommendation ("M&R") [DE-4] of United States Magistrate Judge Robert B. Jones, Jr., regarding Plaintiff's application to proceed *in forma pauperis* ("IFP") under 28 U.S.C. § 1915 and frivolity review of the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). Judge Jones recommends that Plaintiffs' IFP application [DE-1] be denied, on the basis that the complaint fails to state a claim over which the court has subject matter jurisdiction and supplementation of the *in forma pauperis* application would be futile, and Plaintiff's complaint be dismissed for lack of jurisdiction.

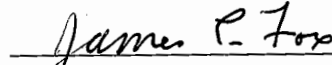
Any objections to the M&R were due within fourteen (14) days of receipt. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(2); Local Civil Rule 72.4(b). Judge Jones filed the M&R on October 13, 2016. Accordingly, Plaintiffs' written objections were due on or before October 30, 2016. *See* FED. R. CIV. P. 6(d) (adding three days for service period when service is made by mailing it to the person's last known address, as done here); FED. R. CIV. P. (a)(1)(C) (noting the last day of the period cannot be a legal holiday). To date, no objections have been filed.¹

¹ The record indicates that Plaintiff filed two documents that are not construed as objections. *See* [DE-6, -7]. The first document, received on November 2, 2016, is a letter from Plaintiff requesting help with property he owns. The second document, received by the court on November 4, 2016, is a copy of the M&R with a handwritten request for "help" mailed to U.S. District Judge Terrence W. Boyle.

Upon careful review of the M&R and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own. 28 U.S.C. § 636(b)(1) (stating "the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge"); *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating absent a specific and timely objection, the court reviews only for "clear error" and need not give any explanation for adopting the M&R). For the reasons stated therein, Plaintiffs' IFP application [DE-1] is DENIED and Plaintiffs' complaint [DE-1-1] is DISMISSED for lack of jurisdiction. The Clerk of Court is directed to close this case.

SO ORDERED.

This the 7 day of November, 2016.



JAMES C. FOX
Senior United States District Judge